

The Right to Protest

All Canadians have the right to gather in peaceful assembly under section 2 (c) of the Charter. The police cannot arrest an individual for peacefully protesting but they can arrest individuals for “obstructing a police officer” which means intentionally trying to prevent an officer from carrying out their duties, “trespassing” which means staying at someone’s private property after they’ve asked you to leave and “mischief” which means damaging and interfering with other’s property.

The police cannot stop you and ask you for identification if you are peacefully protesting, but they can detain you if they are investigating a crime and they can ask you to identify yourself if they want to issue a tickets or a summons. In those cases if you don’t provide an ID you may be arrested and taken to the police station and possibly charged with obstruct police officer which is a criminal charge.

Given the fact that Emergencies Act has been enacted in Ottawa, this will make peaceful assembly more complicated, as the act gives the government the power to suspend the right to peaceful assembly and other Charter protected rights. While the legality of invoking the Emergencies Act maybe challenged in court, until that happens law enforcement will treat it as legal and constitutional and will act accordingly. Each individual must take into consideration the amount of risk they would like to take while peacefully protesting and decide what amount of consequences they are willing to take on.